
SUBSTITUTE HOUSE BILL 1642

State of Washington

66th Legislature

2019 Regular Session

By House Environment & Energy (originally sponsored by Representatives Doglio, Fey, Peterson, Fitzgibbon, Lekanoff, Ortiz-Self, and Tarleton)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to allowing the energy savings associated with
2 on-bill repayment programs to count toward a qualifying utility's
3 energy conservation targets under the energy independence act;
4 amending RCW 19.285.040; reenacting and amending RCW 19.29A.010; and
5 creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 19.29A.010 and 2015 c 285 s 1 are each reenacted and
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Biomass generation" means electricity derived from burning
12 solid organic fuels from wood, forest, or field residue, or dedicated
13 energy crops that do not include wood pieces that have been treated
14 with chemical preservatives such as creosote, pentachlorophenol, or
15 copper-chrome-arsenic.

16 (2) "Bonneville power administration system mix" means a
17 generation mix sold by the Bonneville power administration that is
18 net of any resource specific sales and that is net of any electricity
19 sold to direct service industrial customers, as defined in section
20 3(8) of the Pacific Northwest electric power planning and
21 conservation act (16 U.S.C. Sec. 839(a)(8)).

1 (3) "Coal generation" means the electricity produced by a
2 generating facility that burns coal as the primary fuel source.

3 (4) "Commission" means the utilities and transportation
4 commission.

5 (5) "Conservation" means an increase in efficiency in the use of
6 energy use that yields a decrease in energy consumption while
7 providing the same or higher levels of service. Conservation includes
8 low-income weatherization programs.

9 (6) "Consumer-owned utility" means a municipal electric utility
10 formed under Title 35 RCW, a public utility district formed under
11 Title 54 RCW, an irrigation district formed under chapter 87.03 RCW,
12 a cooperative formed under chapter 23.86 RCW, or a mutual corporation
13 or association formed under chapter 24.06 RCW, that is engaged in the
14 business of distributing electricity to more than one retail electric
15 customer in the state.

16 (7) "Declared resource" means an electricity source specifically
17 identified by a retail supplier to serve retail electric customers. A
18 declared resource includes a stated quantity of electricity tied
19 directly to a specified generation facility or set of facilities
20 either through ownership or contract purchase, or a contractual right
21 to a stated quantity of electricity from a specified generation
22 facility or set of facilities.

23 (8) "Department" means the department of commerce.

24 (9) "Electric meters in service" means those meters that record
25 in at least nine of twelve calendar months in any calendar year not
26 less than two hundred fifty kilowatt-hours per month.

27 (10) "Electric utility" means a consumer-owned or investor-owned
28 utility as defined in this section.

29 (11) "Electricity" means electric energy measured in kilowatt-
30 hours, or electric capacity measured in kilowatts, or both.

31 (12) "Electricity information coordinator" means the organization
32 selected by the department under RCW 19.29A.080 to: (a) Compile
33 generation data in the Northwest power pool by generating project and
34 by resource category; (b) compare the quantity of electricity from
35 declared resources reported by retail suppliers with available
36 generation from such resources; (c) calculate the net system power
37 mix; and (d) coordinate with other comparable organizations in the
38 western interconnection.

39 (13) "Electricity product" means the electrical energy produced
40 by a generating facility or facilities that a retail supplier sells

1 or offers to sell to retail electric customers in the state of
2 Washington, provided that nothing in this title shall be construed to
3 mean that electricity is a good or product for the purposes of Title
4 62A RCW, or any other purpose. It does not include electrical energy
5 generated on-site at a retail electric customer's premises.

6 (14) "Fuel mix" means the actual or imputed sources of
7 electricity sold to retail electric customers, expressed in terms of
8 percentage contribution by resource category. The total fuel mix
9 included in each disclosure shall total one hundred percent.

10 (15) "Geothermal generation" means electricity derived from
11 thermal energy naturally produced within the earth.

12 (16) "Governing body" means the council of a city or town, the
13 commissioners of an irrigation district, municipal electric utility,
14 or public utility district, or the board of directors of an electric
15 cooperative or mutual association that has the authority to set and
16 approve rates.

17 (17) "High efficiency cogeneration" means electricity produced by
18 equipment, such as heat or steam used for industrial, commercial,
19 heating, or cooling purposes, that meets the federal energy
20 regulatory commission standards for qualifying facilities under the
21 public utility regulatory policies act of 1978.

22 (18) "Hydroelectric generation" means a power source created when
23 water flows from a higher elevation to a lower elevation and the flow
24 is converted to electricity in one or more generators at a single
25 facility.

26 (19) "Investor-owned utility" means a company owned by investors
27 that meets the definition of RCW 80.04.010 and is engaged in
28 distributing electricity to more than one retail electric customer in
29 the state.

30 (20) "Landfill gas generation" means electricity produced by a
31 generating facility that uses waste gases produced by the
32 decomposition of organic materials in landfills.

33 (21) "Natural gas generation" means electricity produced by a
34 generating facility that burns natural gas as the primary fuel
35 source.

36 (22) "Net system power mix" means the fuel mix in the Northwest
37 power pool, net of: (a) Any declared resources in the Northwest power
38 pool identified by in-state retail suppliers or out-of-state entities
39 that offer electricity for sale to retail electric customers; (b) any
40 electricity sold by the Bonneville power administration to direct

1 service industrial customers; and (c) any resource specific sales
2 made by the Bonneville power administration.

3 (23) "Northwest power pool" means the generating resources
4 included in the United States portion of the Northwest power pool
5 area as defined by the western systems coordinating council.

6 (24) "Oil generation" means electricity produced by a generating
7 facility that burns oil as the primary fuel source.

8 (25) "Private customer information" includes a retail electric
9 customer's name, address, telephone number, and other personally
10 identifying information.

11 (26) "Proprietary customer information" means: (a) Information
12 that relates to the source, technical configuration, destination, and
13 amount of electricity used by a retail electric customer, a retail
14 electric customer's payment history, and household data that is made
15 available by the customer solely by virtue of the utility-customer
16 relationship; and (b) information contained in a retail electric
17 customer's bill.

18 (27) "Renewable resources" means electricity generation
19 facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d)
20 geothermal energy; (e) landfill gas; or (f) biomass energy based on
21 solid organic fuels from wood, forest, or field residues, or
22 dedicated energy crops that do not include wood pieces that have been
23 treated with chemical preservatives such as creosote,
24 pentachlorophenol, or copper-chrome-arsenic.

25 (28) "Resale" means the purchase and subsequent sale of
26 electricity for profit, but does not include the purchase and the
27 subsequent sale of electricity at the same rate at which the
28 electricity was purchased.

29 (29) "Retail electric customer" means a person or entity that
30 purchases electricity for ultimate consumption and not for resale.

31 (30) "Retail supplier" means an electric utility that offers an
32 electricity product for sale to retail electric customers in the
33 state.

34 (31) "Small utility" means any consumer-owned utility with
35 twenty-five thousand or fewer electric meters in service, or that has
36 an average of seven or fewer customers per mile of distribution line.

37 (32) "Solar generation" means electricity derived from radiation
38 from the sun that is directly or indirectly converted to electrical
39 energy.

40 (33) "State" means the state of Washington.

1 (34) "Waste incineration generation" means electricity derived
2 from burning solid or liquid wastes from businesses, households,
3 municipalities, or waste treatment operations.

4 (35) "Wind generation" means electricity created by movement of
5 air that is converted to electrical energy.

6 (36) "On-bill repayment program" means a program in which an
7 electric utility facilitates repayment of an energy conservation or
8 renewable energy loan between a customer and a third-party capital
9 provider by providing for the repayment of the loan on the customer's
10 electric utility bill.

11 (37) "Third-party capital provider" means the Washington state
12 housing finance commission or a nonprofit lender, community bank, or
13 credit union that provides capital for the purpose of making energy
14 conservation or renewable energy loans under an on-bill repayment
15 program.

16 NEW SECTION. Sec. 2. A new section is added to chapter 19.29A
17 RCW to read as follows:

18 (1) Each electric utility may offer an on-bill repayment program
19 option to its retail electric customers beginning July 1, 2022.

20 (2) An electric utility may provide participants in an on-bill
21 repayment program with any conservation incentives for which the
22 participant is eligible.

23 (3) (a) An electric utility may prepare a marketing and outreach
24 program to promote its on-bill repayment program as part of its
25 biennial conservation plan prepared pursuant to RCW 19.285.040.

26 (b) The utility may recover reasonable and prudent costs
27 associated with its marketing and outreach program through its
28 conservation tariff rider.

29 (4) An electric utility may recover any reasonable and prudent
30 costs associated with upgrading its billing systems to implement an
31 on-bill repayment program.

32 (5) An electric utility may contract with one or more third-party
33 capital providers for the purposes of implementing an on-bill
34 repayment program.

35 (6) An electric utility is not liable or responsible for
36 remitting or collecting unpaid amounts due toward the balance of
37 projects financed through an on-bill repayment program. Partial
38 payments of an electric bill must be first applied to the amount owed
39 to the electric utility for utility services. If the utility does not

1 contract with a third-party capital provider as provided under
2 subsection (5) of this section, and chooses instead to offer its own
3 capital program, the utility is liable and responsible for remitting
4 or collecting unpaid amounts due toward the balance of projects
5 financed through an on-bill repayment program.

6 (7) An electric utility may claim conservation savings from cost-
7 effective measures financed through an on-bill repayment program
8 toward achieving its conservation acquisition targets under chapter
9 19.285 RCW.

10 (8) Up to twenty-five percent of a loan offered through an on-
11 bill repayment program may fund measures that are not included in a
12 utility's conservation portfolio.

13 **Sec. 3.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to
14 read as follows:

15 (1) Each qualifying utility shall pursue all available
16 conservation that is cost-effective, reliable, and feasible.

17 (a) By January 1, 2010, using methodologies consistent with those
18 used by the Pacific Northwest electric power and conservation
19 planning council in the most recently published regional power plan
20 as it existed on June 12, 2014, or a subsequent date as may be
21 provided by the department or the commission by rule, each qualifying
22 utility shall identify its achievable cost-effective conservation
23 potential through 2019. Nothing in the rule adopted under this
24 subsection precludes a qualifying utility from using its utility
25 specific conservation measures, values, and assumptions in
26 identifying its achievable cost-effective conservation potential. At
27 least every two years thereafter, the qualifying utility shall review
28 and update this assessment for the subsequent ten-year period.

29 (b) Beginning January 2010, each qualifying utility shall
30 establish and make publicly available a biennial acquisition target
31 for cost-effective conservation consistent with its identification of
32 achievable opportunities in (a) of this subsection, and meet that
33 target during the subsequent two-year period. At a minimum, each
34 biennial target must be no lower than the qualifying utility's pro
35 rata share for that two-year period of its cost-effective
36 conservation potential for the subsequent ten-year period.

37 (c)(i) Except as provided in (c)(ii) and (iii) of this
38 subsection, beginning on January 1, 2014, cost-effective conservation
39 achieved by a qualifying utility in excess of its biennial

1 acquisition target may be used to help meet the immediately
2 subsequent two biennial acquisition targets, such that no more than
3 twenty percent of any biennial target may be met with excess
4 conservation savings.

5 (ii) Beginning January 1, 2014, a qualifying utility may use
6 single large facility conservation savings in excess of its biennial
7 target to meet up to an additional five percent of the immediately
8 subsequent two biennial acquisition targets, such that no more than
9 twenty-five percent of any biennial target may be met with excess
10 conservation savings allowed under all of the provisions of this
11 section combined. For the purposes of this subsection (1)(c)(ii),
12 "single large facility conservation savings" means cost-effective
13 conservation savings achieved in a single biennial period at the
14 premises of a single customer of a qualifying utility whose annual
15 electricity consumption prior to the conservation savings exceeded
16 five average megawatts.

17 (iii) Beginning January 1, 2012, and until December 31, 2017, a
18 qualifying utility with an industrial facility located in a county
19 with a population between ninety-five thousand and one hundred
20 fifteen thousand that is directly interconnected with electricity
21 facilities that are capable of carrying electricity at transmission
22 voltage may use cost-effective conservation from that industrial
23 facility in excess of its biennial acquisition target to help meet
24 the immediately subsequent two biennial acquisition targets, such
25 that no more than twenty-five percent of any biennial target may be
26 met with excess conservation savings allowed under all of the
27 provisions of this section combined.

28 (d) In meeting its conservation targets, a qualifying utility may
29 count high-efficiency cogeneration owned and used by a retail
30 electric customer to meet its own needs. High-efficiency cogeneration
31 is the sequential production of electricity and useful thermal energy
32 from a common fuel source, where, under normal operating conditions,
33 the facility has a useful thermal energy output of no less than
34 thirty-three percent of the total energy output. The reduction in
35 load due to high-efficiency cogeneration shall be: (i) Calculated as
36 the ratio of the fuel chargeable to power heat rate of the
37 cogeneration facility compared to the heat rate on a new and clean
38 basis of a best-commercially available technology combined-cycle
39 natural gas-fired combustion turbine; and (ii) counted towards

1 meeting the biennial conservation target in the same manner as other
2 conservation savings.

3 (e) In meeting its conservation targets, a qualifying utility may
4 count the conservation savings associated with an on-bill repayment
5 program established under section 2 of this act, provided that the
6 savings otherwise qualify as cost-effective conservation under this
7 section.

8 (f) The commission may determine if a conservation program
9 implemented by an investor-owned utility is cost-effective based on
10 the commission's policies and practice.

11 (~~(f)~~) (g) The commission may rely on its standard practice for
12 review and approval of investor-owned utility conservation targets.

13 (2)(a) Except as provided in (j) of this subsection, each
14 qualifying utility shall use eligible renewable resources or acquire
15 equivalent renewable energy credits, or any combination of them, to
16 meet the following annual targets:

17 (i) At least three percent of its load by January 1, 2012, and
18 each year thereafter through December 31, 2015;

19 (ii) At least nine percent of its load by January 1, 2016, and
20 each year thereafter through December 31, 2019; and

21 (iii) At least fifteen percent of its load by January 1, 2020,
22 and each year thereafter.

23 (b) A qualifying utility may count distributed generation at
24 double the facility's electrical output if the utility: (i) Owns or
25 has contracted for the distributed generation and the associated
26 renewable energy credits; or (ii) has contracted to purchase the
27 associated renewable energy credits.

28 (c) In meeting the annual targets in (a) of this subsection, a
29 qualifying utility shall calculate its annual load based on the
30 average of the utility's load for the previous two years.

31 (d) A qualifying utility shall be considered in compliance with
32 an annual target in (a) of this subsection if: (i) The utility's
33 weather-adjusted load for the previous three years on average did not
34 increase over that time period; (ii) after December 7, 2006, the
35 utility did not commence or renew ownership or incremental purchases
36 of electricity from resources other than coal transition power or
37 renewable resources other than on a daily spot price basis and the
38 electricity is not offset by equivalent renewable energy credits; and
39 (iii) the utility invested at least one percent of its total annual

1 retail revenue requirement that year on eligible renewable resources,
2 renewable energy credits, or a combination of both.

3 (e) The requirements of this section may be met for any given
4 year with renewable energy credits produced during that year, the
5 preceding year, or the subsequent year. Each renewable energy credit
6 may be used only once to meet the requirements of this section.

7 (f) In complying with the targets established in (a) of this
8 subsection, a qualifying utility may not count:

9 (i) Eligible renewable resources or distributed generation where
10 the associated renewable energy credits are owned by a separate
11 entity; or

12 (ii) Eligible renewable resources or renewable energy credits
13 obtained for and used in an optional pricing program such as the
14 program established in RCW 19.29A.090.

15 (g) Where fossil and combustible renewable resources are cofired
16 in one generating unit located in the Pacific Northwest where the
17 cofiring commenced after March 31, 1999, the unit shall be considered
18 to produce eligible renewable resources in direct proportion to the
19 percentage of the total heat value represented by the heat value of
20 the renewable resources.

21 (h) (i) A qualifying utility that acquires an eligible renewable
22 resource or renewable energy credit may count that acquisition at one
23 and two-tenths times its base value:

24 (A) Where the eligible renewable resource comes from a facility
25 that commenced operation after December 31, 2005; and

26 (B) Where the developer of the facility used apprenticeship
27 programs approved by the council during facility construction.

28 (ii) The council shall establish minimum levels of labor hours to
29 be met through apprenticeship programs to qualify for this extra
30 credit.

31 (i) A qualifying utility shall be considered in compliance with
32 an annual target in (a) of this subsection if events beyond the
33 reasonable control of the utility that could not have been reasonably
34 anticipated or ameliorated prevented it from meeting the renewable
35 energy target. Such events include weather-related damage, mechanical
36 failure, strikes, lockouts, and actions of a governmental authority
37 that adversely affect the generation, transmission, or distribution
38 of an eligible renewable resource under contract to a qualifying
39 utility.

1 (j)(i) Beginning January 1, 2016, only a qualifying utility that
2 owns or is directly interconnected to a qualified biomass energy
3 facility may use qualified biomass energy to meet its compliance
4 obligation under this subsection.

5 (ii) A qualifying utility may no longer use electricity and
6 associated renewable energy credits from a qualified biomass energy
7 facility if the associated industrial pulping or wood manufacturing
8 facility ceases operation other than for purposes of maintenance or
9 upgrade.

10 (k) An industrial facility that hosts a qualified biomass energy
11 facility may only transfer or sell renewable energy credits
12 associated with qualified biomass energy generated at its facility to
13 the qualifying utility with which it is directly interconnected with
14 facilities owned by such a qualifying utility and that are capable of
15 carrying electricity at transmission voltage. The qualifying utility
16 may only use an amount of renewable energy credits associated with
17 qualified biomass energy that are equivalent to the proportionate
18 amount of its annual targets under (a)(ii) and (iii) of this
19 subsection that was created by the load of the industrial facility. A
20 qualifying utility that owns a qualified biomass energy facility may
21 not transfer or sell renewable energy credits associated with
22 qualified biomass energy to another person, entity, or qualifying
23 utility.

24 (3) Utilities that become qualifying utilities after December 31,
25 2006, shall meet the requirements in this section on a time frame
26 comparable in length to that provided for qualifying utilities as of
27 December 7, 2006.

28 NEW SECTION. **Sec. 4.** The joint legislative audit and review
29 committee must study the efficacy of on-bill repayment programs
30 offered under this act and submit a report to the legislature by
31 January 1, 2025. In the study, the joint legislative audit and review
32 committee must evaluate whether program efficacy varies by location,
33 utility type, and other variables.

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